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BirdDog Technology Limited and
10 BirdDog Australia Pty Ltd

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 BIRDDOG TECHNOLOGY
15 LIMITED, an Australian company;
16 and BIRDDOG AUSTRALIA PTY,
LTD, an Australian company,

17 Plaintiffs,

18 v.

19 2082 TECHNOLOGY, LLC DBA
20 BOLIN TECHNOLOGY, a California
limited liability company; BOLIN
21 TECHNOLOGY CO., LTD., a Chinese
limited company; HOI "KYLE" LO, an
22 individual; JENNIFER LEE, an
individual; and DOES 3 through 25,
inclusive,

23 Defendants.
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25
26
27
28

Case No. 2:23-cv-09416 CAS (AGRx)

**PLAINTIFFS BIRDDOG
TECHNOLOGY LIMITED'S AND
BIRDDOG AUSTRALIA PTY LTD'S
NOTICE OF INABILITY TO
COMPLY WITH RECENT COURT
ORDERS (DKT. 70, 72) AND
REQUEST FOR EXTENSION**

*[Filed Concurrently with (1) Declaration
of Kevin G. Sullivan]*

Complaint Filed: November 7, 2023
FAC filed: January 12, 2024

1 a lawsuit against BirdDog in Australia for breach of contract and misleading and
 2 deceptive conduct (“Australian Action”) (Dkts. 54-5, 54-6: Australian Statement of
 3 Claim) arising from the “same six transactions” at issue in this Action (Dkt. 60).

4 On February 20, 2024, counsel for BirdDog attempted to confer with Umberg
 5 Zipser LLP, counsel for Bolin LLC, Mr. Lo, and Ms. Lee (“Defense Counsel”) over
 6 a motion for anti-suit injunction in light of the duplicative nature of the Australian
 7 Action. (Declaration of Kevin G. Sullivan [“Sullivan Decl.”], ¶ 13, Exh. K.)

8 **AUSTRALIAN COURT ORDERS ENJOINING BIRDDOG**

9 On February 21, 2024,² Bolin Limited filed an *ex parte* application in the
 10 Australian Action requesting that the Federal Court of Australia (“Australian Court”)
 11 restrain BirdDog “from taking any further step” in this Action, including by filing a
 12 motion for anti-suit injunction enjoining Bolin Limited from pursuing its lawsuit in
 13 Australia (the “Application for Anti-Anti-Suit Injunction”). (Sullivan Decl., ¶ 2,
 14 Exh. A.)

15 The Australian Court granted Bolin Limited’s Application for Anti-Anti-Suit
 16 Injunction, enjoining BirdDog from taking “any further step” against Bolin Limited
 17 in this Court through March 7, 2024. (Sullivan Decl., ¶ 3, Exh. B.) On March 7,
 18 2024, Bolin Limited sought an extension and expansion of the Order they initially
 19 obtained. (Sullivan Decl., ¶ 4, Exh. C.) The Australian Court again granted this
 20 request, ordering that the temporary injunction against BirdDog remain in effect until
 21 the Australian Court ruled on Bolin Limited’s request for more permanent
 22 injunctions,³ which was expected by March 15, 2024 or shortly thereafter. (Sullivan
 23 Decl., ¶ 5, Exh. D.)

24
 25 ² The Application for Anti-Anti Suit Injunction and Order are dated February 22,
 26 2024 and not February 21, 2024 because Victoria, Australia is 19 hours ahead of
 Pacific Standard Time in Los Angeles, California.

27 ³ In addition to the Application for Anti-Anti-Suit Injunction, Bolin Limited
 28 requested a broader order enjoining BirdDog from prosecuting this Action. Lacking
 the ability to file a motion for anti-suit injunction in this Court, BirdDog filed a

1 By March 20, 2024, the Australian Court had not delivered its ruling. As such,
 2 BirdDog asked Bolin Limited to stipulate to modify the Australian Court's order in
 3 light of this Court's March 13 and 15, 2024 orders, but Bolin Limited refused.
 4 (Sullivan Decl., ¶ 6.)

5 BirdDog requested modification of the Australian Court's orders on an
 6 emergency basis before its deadline to file the supplemental brief by March 22, 2024
 7 and the Second Amended Complaint by March 25, 2024, but the Australian Court
 8 denied the request and informed BirdDog that notifying this Court of the Australian's
 9 Court's orders prior to its ruling on Bolin Limited's request for a permanent
 10 injunction against BirdDog would violate its prior orders. (Sullivan Decl., ¶ 7, Exh.
 11 E.)

12 **ONGOING AUSTRALIAN COURT ORDERS ENJOINING BIRDDOG**

13 On March 26, 2024, the Australian Court ruled on the interlocutory
 14 applications. (Sullivan Decl., ¶¶ 8–10, Exhs. F–H.) Although the Australian Court
 15 denied Bolin Limited's broader request for an anti-suit injunction enjoining BirdDog
 16 from pursuing this Action (Sullivan Decl., ¶ 8, Exh. F), the Australian Court extended
 17 the temporary order "restrain[ing] [BirdDog] from taking any further step against
 18 [Bolin Limited] in the proceeding commenced by them against [Bolin Limited] in
 19 the United States District Court for the Central District of California" until 5:00pm
 20 on April 9, 2024. (Sullivan Decl., ¶ 9, Exh. G.) The Australian Court entered the
 21 foregoing order pursuant to Bolin Limited's request. (Sullivan Decl., ¶ 9.)

22 **MODIFICATION OF THE AUSTRALIAN COURT ORDERS ENJOINING** 23 **BIRDDOG**

24 BirdDog immediately renewed its request to modify the Australian Court's
 25 orders to permit BirdDog to (1) inform this Court of the reasons for non-compliance
 26 with the Court's March 13 and 15, 2024, and (2) file and serve the Second Amended
 27 _____
 28 motion for anti-suit injunction in the Australian Court requesting an order enjoining
 Bolin Limited from pursuing its lawsuit in Australia.

1 Complaint. (Sullivan Decl., ¶ 11, Exh. I.) On March 27, 2024, the Australian Court
 2 indicated that it would shortly issue an order modifying its previous orders to allow
 3 BirdDog to “inform the United States District Court of the reason for non-compliance
 4 with that Court’s orders made on 13 and 15 March 2024.” (Sullivan Decl., ¶ 12, Exh.
 5 J.)

6 As BirdDog only received the Australian Court’s aforementioned
 7 communication at around 11:25 p.m. PST yesterday, BirdDog did not know how the
 8 Australian Court’s ruling would affect its ability to pursue its lawsuit against Bolin
 9 Limited here until then. BirdDog apologizes to this Court for its non-compliance
 10 with this Court’s prior orders and respectfully requests an extension of no less than
 11 seven (7) calendar days from today to file the Second Amended Complaint.⁴

12 BirdDog respectfully awaits further guidance from this Court on the issue.

13
 14 Respectfully submitted,

15
 16 **K&L GATES LLP**

17 Dated: March 27, 2024

18 By: /s/ Cassidy T. Young

19 Ryan Q. Keech

20 Gabriel M. Huey

21 Kevin G. Sullivan

22 Cassidy T. Young

23 *Attorneys for Plaintiffs*

24
 25 ⁴ Although BirdDog understands that this does not excuse non-compliance with the
 26 Court’s March 13, 2024 Order, BirdDog believes that filing the Second Amended
 27 Complaint will moot the issue of whether it properly served Bolin Limited with the
 28 First Amended Complaint on February 12, 2024, which was the subject of the Court’s
 March 13, 2024 Order (Dkt. 70), because BirdDog will need to serve the Second
 Amended Complaint on all defendants, including Bolin Limited.